

117TH CONGRESS
1ST SESSION

S. _____

To amend title 23, United States Code, to ensure that Federal-aid highways, bridges, and tunnels are more resilient, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. GILLIBRAND introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title 23, United States Code, to ensure that Federal-aid highways, bridges, and tunnels are more resilient, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Resilient Highways
5 Act of 2021”.

6 **SEC. 2. NATIONAL HIGHWAY PERFORMANCE PROGRAM.**

7 Section 119 of title 23, United States Code, is
8 amended—

9 (1) in subsection (b)—

1 (A) in paragraph (2), by striking “and” at
2 the end;

3 (B) in paragraph (3), by striking the pe-
4 riod at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(4) to provide support for measures to in-
7 crease the resiliency of Federal-aid highways,
8 bridges, and tunnels on and off the National High-
9 way System to mitigate the impacts of sea level rise
10 and extreme weather events.”; and

11 (2) by adding at the end the following:

12 “(k) PROTECTIVE FEATURES.—

13 “(1) IN GENERAL.—A State may use not more
14 than 15 percent of the funds apportioned to the
15 State under section 104(b)(1) for each fiscal year
16 for a protective feature on a Federal-aid highway,
17 bridge, or tunnel, if the protective feature is an eco-
18 nomically justified improvement designed to mitigate
19 the risk of recurring damage or the cost of future
20 repairs from extreme weather, flooding, and other
21 natural disasters.

22 “(2) PROTECTIVE FEATURES DESCRIBED.—A
23 protective feature referred to in paragraph (1) may
24 include—

25 “(A) raising roadway grades;

1 “(B) relocating roadways in a floodplain to
2 higher ground above projected flood elevation
3 levels or away from slide prone areas;

4 “(C) stabilizing slide areas;

5 “(D) stabilizing slopes;

6 “(E) installing riprap;

7 “(F) lengthening or raising bridges to in-
8 crease waterway openings;

9 “(G) deepening channels to prevent flood-
10 ing;

11 “(H) increasing the size or number of
12 drainage structures;

13 “(I) replacing culverts with bridges or
14 upsizing culverts;

15 “(J) repairing or maintaining tide gates;

16 “(K) installing seismic retrofits on bridges;

17 “(L) adding scour protection at bridges;

18 “(M) adding spur dikes;

19 “(N) the use of natural infrastructure to
20 mitigate the risk of recurring damage or the
21 cost of future repair from extreme weather,
22 flooding, and other natural disasters; and

23 “(O) any other features that mitigate the
24 risk of recurring damage or the cost of future
25 repair as a result of extreme weather, flooding,

1 and other natural disasters, as determined by
2 the Secretary.

3 “(3) SAVINGS PROVISION.—Nothing in this sub-
4 section limits the ability of a State to carry out a
5 project otherwise eligible under subsection (d) using
6 funds apportioned under section 104(b)(1).”.

7 **SEC. 3. FEDERAL SHARE PAYABLE.**

8 Section 120(c) of title 23, United States Code, is
9 amended by adding at the end the following:

10 “(4) PROTECTIVE FEATURES.—

11 “(A) IN GENERAL.—Notwithstanding any
12 other provision of law, the Federal share pay-
13 able for the cost of a protective feature on a
14 Federal-aid highway, bridge, or tunnel project
15 under this title may be up to 100 percent, at
16 the discretion of the State, if the protective fea-
17 ture is an economically justified improvement to
18 mitigate the risk of recurring damage or the
19 cost of future repair from extreme weather,
20 flooding, and other natural disasters.

21 “(B) PROTECTIVE FEATURES DE-
22 SCRIBED.—A protective feature referred to in
23 subparagraph (A) may include—

24 “(i) raising roadway grades;

1 “(ii) relocating roadways in a flood-
2 plain to higher ground above projected
3 flood elevation levels or away from slide
4 prone areas;

5 “(iii) stabilizing slide areas;

6 “(iv) stabilizing slopes;

7 “(v) installing riprap;

8 “(vi) lengthening or raising bridges to
9 increase waterway openings;

10 “(vii) deepening channels to prevent
11 flooding;

12 “(viii) increasing the size or number
13 of drainage structures;

14 “(ix) replacing culverts with bridges
15 or upsizing culverts;

16 “(x) repairing or maintaining tide
17 gates;

18 “(xi) installing seismic retrofits on
19 bridges;

20 “(xii) adding scour protection at
21 bridges;

22 “(xiii) adding spur dikes;

23 “(xiv) the use of natural infrastruc-
24 ture to mitigate the risk of recurring dam-
25 age or the cost of future repair from ex-

1 treme weather, flooding, and other natural
2 disasters; and
3 “(xv) any other features that mitigate
4 the risk of recurring damage or the cost of
5 future repair as a result of extreme weath-
6 er, flooding, and other natural disasters, as
7 determined by the Secretary.”.

8 **SEC. 4. EMERGENCY RELIEF.**

9 Section 125 of title 23, United States Code, is
10 amended—

11 (1) in subsection (a)(1), by inserting “wildfire,
12 sea level rise,” after “severe storm”;

13 (2) by striking subsection (b) and inserting the
14 following:

15 “(b) RESTRICTION ON ELIGIBILITY.—Funds under
16 this section shall not be used for the repair or reconstruc-
17 tion of a bridge that has been permanently closed to all
18 vehicular traffic by the State or responsible local official
19 because of imminent danger of collapse due to a structural
20 deficiency or physical deterioration.”; and

21 (3) in subsection (d)—

22 (A) in paragraph (2)(A)—

23 (i) by striking the period at the end
24 and inserting “; and”

1 (ii) by striking “a facility that meets
2 the current” and inserting the following:

3 “a facility that—

4 “(i) meets the current”; and

5 (iii) by adding at the end the fol-
6 lowing:

7 “(ii) incorporates economically justifi-
8 able improvements designed to mitigate the
9 risk of recurring damage from extreme
10 weather, flooding, and other natural disas-
11 ters.”;

12 (B) by redesignating paragraph (3) as
13 paragraph (4); and

14 (C) by inserting after paragraph (2) the
15 following:

16 “(3) PROTECTIVE FEATURES.—

17 “(A) IN GENERAL.—The cost of an im-
18 provement that is part of a project under this
19 section shall be an eligible expense under this
20 section if the improvement is a protective fea-
21 ture that is economically justified to mitigate
22 the risk of recurring damage or the cost of fu-
23 ture repair from extreme weather, flooding, and
24 other natural disasters.

1 “(B) PROTECTIVE FEATURES DE-
2 SCRIBED.—A protective feature referred to in
3 subparagraph (A) may include—
4 “(i) raising roadway grades;
5 “(ii) relocating roadways in a flood-
6 plain to higher ground above projected
7 flood elevation levels or away from slide
8 prone areas;
9 “(iii) stabilizing slide areas;
10 “(iv) stabilizing slopes;
11 “(v) installing riprap;
12 “(vi) lengthening or raising bridges to
13 increase waterway openings;
14 “(vii) deepening channels to prevent
15 flooding;
16 “(viii) increasing the size or number
17 of drainage structures;
18 “(ix) replacing culverts with bridges
19 or upsizing culverts;
20 “(x) repairing or maintaining tide
21 gates;
22 “(xi) installing seismic retrofits on
23 bridges;
24 “(xii) adding scour protection at
25 bridges;

1 “(xiii) adding spur dikes;

2 “(xiv) the use of natural infrastruc-
3 ture to mitigate the risk of recurring dam-
4 age or the cost of future repair from ex-
5 treme weather, flooding, and other natural
6 disasters; and

7 “(xv) any other features that mitigate
8 the risk of recurring damage or the cost of
9 future repair as a result of extreme weath-
10 er, flooding, and other natural disasters, as
11 determined by the Secretary.”.